

Amendment and Response

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Serial No.: 10/049,665

Confirmation No.: 4705

Filed: 11 April 2002

For: METHOD FOR PRODUCING A DENTAL PROSTHESIS

Remarks

The Office Action mailed 21 March 2007 has been received and reviewed. Claim 34 having been amended, claims 41-43 having been added, and no claims having been canceled herein, the pending claims are claims 17-21, 34-39, and 41-43.

Claim 34 has been rewritten in independent form.

New claims 41-43 are supported, for example, by claims 17, 18, and 34 (as amended).

Reconsideration and withdrawal of the rejections are respectfully requested.

Objection to the Claims

The Office Action Summary page (i.e., page 1) of the Office Action mailed 21 March 2007 lists claims 34-36 and 39 as being objected to. Because claims 34-36 and 39 are not rejected in the Office Action, Applicants assume that claims 34-36 and 39 are objected to as otherwise being allowable, but objected to as being dependent on a rejected claim. If this assumption is incorrect, appropriate clarification is respectfully requested in the next Official Communication.

Claim 34 having been rewritten in independent form, and claims 35-36 and 39 being dependent thereon, Applicants respectfully submit that claims 34-36 and 39 are now in condition for allowance.

Rejections under 35 U.S.C. §103

The Examiner rejected claims 17-18, 20-21, and 37-38 under 35 U.S.C. §103(a) as being unpatentable over Hintersehr (U.S. Patent No. 5,702,650) in view of Filser et al. (All Ceramic Dental Bridges, pgs. 165-189). This rejection is respectfully traversed.

In the response submitted 13 October 2006, Applicants presented reasons why the Examiner had failed to establish a *prima facie* case of obviousness for claims 17-18, 20-21, and 37-38 being unpatentable over Hintersehr in view of Filser et al. Applicants again submit that these reasons, which are incorporated herein by reference, are sufficient without more to

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overcome the rejections of the present claims. Nonetheless, Applicants present herein additional reasons why the rejections of the present claims should be reconsidered and withdrawn.

As acknowledged by the Examiner, "Hintersehr is . . . silent disclosing the raw breaking resistance of the pre-sintered material" (page 2, bottom paragraph, of the Office Action mailed 21 March 2007). Nonetheless, the Examiner asserted:

However, the composition of the presintered material of Hintersehr is similar to the composition as recited in instant claim 34. Hintersehr does not specifies [sic] that 0.05 to .5 wt % of an oxide is chosen from gallium, germanium, indium, or aluminum.

In view that only an oxide with 0.05 wt % differs from that of Hintersehr and the composition used by the applicant, and that the oxide used by applicant is to affect the sintering temperature and hydrolytic resistance of the material, it would be obvious to a person of ordinary skill in the art at the time the invention was made, that the claimed raw breaking resistance is a shared, or reasonably be expected to be shared by Hintersehr's composition. (Page 2, bottom line to page 3, line 8 of the Office Action mailed 21 March 2007).

Applicants respectfully disagree with the Examiner's assertion.

Applicants respectfully submit that the raw breaking resistance of the blank is a result not only of its composition, but also of the presintering processing conditions (e.g., time and temperature profile). *See, for example*, the present specification at, for example, page 7, lines 1-5; page 9, lines 14-18; and page 11, line 21 to page 12, line 2. As acknowledged by the Examiner, Hintersehr fails to teach or suggest a presintered material made from a zirconium oxide ceramic that includes 0.05 to 0.50 wt.-% of at least one of the oxides of the elements aluminum, gallium, germanium, indium. The Examiner further acknowledged that "that the oxide used by applicant is *to affect the sintering temperature* . . . of the material" (page 3, lines 4-5 of the Office Action mailed 21 March 2007).

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Because the composition disclosed by Hintersehr lacks 0.05 to 0.50 wt.-% of at least one of the oxides of the elements aluminum, gallium, germanium, indium, and further because these oxides are acknowledged by the Examiner as used *to affect the sintering temperature*, Applicants respectfully submit that it does not logically follow that the claimed raw breaking resistance is shared, or reasonably expected to be shared, by Hintersehr's composition. For at least this reason, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness for claims 17-18, 20-21, and 37-38 being unpatentable over Hintersehr in view of Filser et al.

The Examiner rejected claim 19 under 35 U.S.C. §103(a) as being unpatentable over Hintersehr in view of Filser et al., and in further view of Filser (All Ceramic Dental Bridges slide presentation). This rejection is respectfully traversed.

Claim 19 depends alternatively from claim 17 or claim 18. The deficiencies of Hintersehr in view of Filser et al. as applied to claims 17 and 18 have been discussed herein above. Applicants respectfully submit that Filser fails to provide that which is missing from Hintersehr in view of Filser et al. For at least this reason Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness for claim 19 being unpatentable over Hintersehr in view of Filser et al., and in further view of Filser.

Reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are respectfully requested.

New Claims

New claims 41-43 recite methods using compositions similar to those recited, for example, in claim 34. Applicants respectfully submit that new claims 41-43 are patentable for reasons similar to those for the patentability of, for example, claim 34 (as amended).

Entry and consideration of new claims 41-43 are respectfully requested.

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Summary

It is respectfully submitted that all the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

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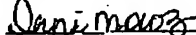
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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21st day of June, 2007, at 12:44 pm (Central Time).

By: Name: Dani Moritz